

IC 35-44.1-3

Chapter 3. Detention

IC 35-44.1-3-1

Resisting law enforcement

Sec. 1. (a) A person who knowingly or intentionally:

- (1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;
- (2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or
- (3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

(1) Level 6 felony if:

- (A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or
- (B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Level 5 felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person;

(3) Level 3 felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person; and

(4) Level 2 felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of a law enforcement officer while the law enforcement officer is engaged in the officer's official duties.

(c) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), (b)(3), or (b)(4), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

- (1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;
- (2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or
- (3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(d) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (c) may not be suspended.

(e) If a person is convicted of an offense involving the use of a motor vehicle under:

- (1) subsection (b)(1)(A), if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;
- (2) subsection (b)(2); or
- (3) subsection (b)(3);

the court may notify the bureau of motor vehicles to suspend or revoke the person's driver's license and all certificates of registration and license plates issued or registered in the person's name in accordance with IC 9-30-4-6(b)(3) for the period described in IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5). The court shall inform the bureau whether the person has been sentenced to a term of incarceration. At the time of conviction, the court may obtain the person's current driver's license and return the license to the bureau of motor vehicles.

(f) A person may not be charged or convicted of a crime under subsection (a)(3) if the law enforcement officer is a school resource officer acting in the officer's capacity as a school resource officer.

As added by P.L.126-2012, SEC.54. Amended by P.L.172-2013, SEC.11; P.L.158-2013, SEC.509; P.L.168-2014, SEC.80.

IC 35-44.1-3-2

Disarming a law enforcement officer

Sec. 2. (a) As used in this section, "officer" includes the following:

- (1) A person employed by:
 - (A) the department of correction;
 - (B) a law enforcement agency;
 - (C) a probation department;
 - (D) a county jail; or
 - (E) a circuit, superior, county, probate, city, or town court;who is required to carry a firearm in performance of the person's official duties.

(2) A law enforcement officer.

(b) A person who:

- (1) knows that another person is an officer; and
- (2) knowingly or intentionally takes or attempts to take a firearm (as defined in IC 35-47-1-5) or weapon that the officer is authorized to carry from the officer or from the immediate proximity of the officer:
 - (A) without the consent of the officer; and
 - (B) while the officer is engaged in the performance of the officer's official duties;

commits disarming a law enforcement officer, a Level 5 felony. However, the offense is a Level 3 felony if it results in serious bodily injury to a law enforcement officer, and the offense is a Level 1

felony if it results in death to a law enforcement officer.

As added by P.L.126-2012, SEC.54. Amended by P.L.158-2013, SEC.510.

IC 35-44.1-3-3

Refusal to aid an officer

Sec. 3. A person who, when ordered by a law enforcement officer to assist the officer in the execution of the officer's duties, knowingly or intentionally, and without a reasonable cause, refuses to assist commits refusal to aid an officer, a Class B misdemeanor.

As added by P.L.126-2012, SEC.54.

IC 35-44.1-3-4

Escape

Sec. 4. (a) A person, except as provided in subsection (b), who intentionally flees from lawful detention commits escape, a Level 5 felony. However, the offense is a Level 4 felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or intentionally violates a home detention order or intentionally removes an electronic monitoring device or GPS tracking device commits escape, a Level 6 felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Level 6 felony. However, the offense is a Level 5 felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

As added by P.L.126-2012, SEC.54. Amended by P.L.158-2013, SEC.511.

IC 35-44.1-3-5

Trafficking with an inmate; carrying a deadly weapon into a correctional facility

Sec. 5. (a) As used in this section, "juvenile facility" means the following:

(1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) A person who, without the prior authorization of the person in charge of a penal facility or juvenile facility, knowingly or intentionally:

(1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the

facility;

(2) carries, or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility; or

(3) delivers, or carries to a worksite with the intent to deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew;

commits trafficking with an inmate, a Class A misdemeanor. However, the offense is a Level 5 felony under subdivision (1) or (2) if the article is a controlled substance, a deadly weapon, or a cellular telephone or other wireless or cellular communications device.

(c) If:

(1) the person who committed the offense under subsection (b) is an employee of:

(A) the department of correction; or

(B) a penal facility;

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall order the person to pay a fine of at least five hundred dollars (\$500) and not more than five thousand dollars (\$5,000) under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2; or

(2) a person is convicted of committing a Level 5 felony under subsection (b)(1) or (b)(2) because the article was a cellular telephone or other wireless or cellular communication device, the court shall order the person to pay a fine of at least five hundred dollars (\$500) and not more than ten thousand dollars (\$10,000) under IC 35-50-2-6(a) in addition to any term of imprisonment imposed on the person under IC 35-50-2-6(a).

(d) A person who:

(1) is not an inmate of a penal facility or a child of a juvenile facility; and

(2) knowingly or intentionally possesses in, or carries or causes to be brought into, the penal facility or juvenile facility a deadly weapon without the prior authorization of the person in charge of the penal facility or juvenile facility;

commits carrying a deadly weapon into a correctional facility, a Level 5 felony.

As added by P.L.126-2012, SEC.54. Amended by P.L.5-2013, SEC.1; P.L.158-2013, SEC.512; P.L.168-2014, SEC.81.

IC 35-44.1-3-6

Trafficking with an inmate outside a facility

Sec. 6. (a) As used in this section, "contraband" means the following:

(1) Alcohol.

(2) A cigarette or tobacco product.

(3) A controlled substance.

(4) An item that may be used as a weapon.

(b) As used in this section, "inmate outside a facility" means a

person who is incarcerated in a penal facility or detained in a juvenile facility on a full-time basis as the result of a conviction or a juvenile adjudication but who has been or is being transported to another location to participate in or prepare for a judicial proceeding. The term does not include the following:

- (1) An adult or juvenile pretrial detainee.
- (2) A person serving an intermittent term of imprisonment or detention.
- (3) A person serving a term of imprisonment or detention as:
 - (A) a condition of probation;
 - (B) a condition of a community corrections program;
 - (C) part of a community transition program;
 - (D) part of a reentry court program;
 - (E) part of a work release program; or
 - (F) part of a community based program that is similar to a program described in clauses (A) through (E).
- (4) A person who has escaped from incarceration or walked away from secure detention.
- (5) A person on temporary leave (as described in IC 11-10-9) or temporary release (as described in IC 11-10-10).
- (c) A person who, with the intent of providing contraband to an inmate outside a facility:
 - (1) delivers contraband to an inmate outside a facility; or
 - (2) places contraband in a location where an inmate outside a facility could obtain the contraband;

commits trafficking with an inmate outside a facility, a Class A misdemeanor. However, the offense is a Level 6 felony if the contraband is an item described in subsection (a)(3), and a Level 5 felony if the contraband is an item described in subsection (a)(4).

As added by P.L.126-2012, SEC.54. Amended by P.L.158-2013, SEC.513.

IC 35-44.1-3-7

Possession of a dangerous device while incarcerated

Sec. 7. A person who knowingly or intentionally while incarcerated in a penal facility possesses a device, equipment, a chemical substance, or other material that:

- (1) is used; or
- (2) is intended to be used;

in a manner that is readily capable of causing bodily injury commits a Level 5 felony. However, the offense is a Level 4 felony if the device, equipment, chemical substance, or other material is a deadly weapon.

As added by P.L.126-2012, SEC.54. Amended by P.L.158-2013, SEC.514.

IC 35-44.1-3-8

Possession of a cellular telephone while incarcerated

Sec. 8. A person who knowingly or intentionally possesses a

cellular telephone or other wireless or cellular communications device while incarcerated in a penal facility commits a Class A misdemeanor.

As added by P.L.126-2012, SEC.54. Amended by P.L.5-2013, SEC.2.

IC 35-44.1-3-9

Violating a condition of lifetime parole with a minor

Sec. 9. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a crime that was committed by the person commits a Level 6 felony if, at the time of the violation:

- (1) the person's lifetime parole has been revoked two (2) or more times; or
- (2) the person has completed the person's sentence, including any educational credit or good time credit the person may have earned.

(b) The offense described in subsection (a) is a Level 5 felony if the person has a prior unrelated conviction under this section.

As added by P.L.126-2012, SEC.54. Amended by P.L.158-2013, SEC.515; P.L.74-2015, SEC.25.

IC 35-44.1-3-10

Sexual misconduct with a service provider

Sec. 10. (a) The following definitions apply throughout this section:

- (1) "Lawful supervision" means supervision by:
 - (A) the department of correction;
 - (B) a court;
 - (C) a probation department;
 - (D) a community corrections program, a community transition program, or another similar program; or
 - (E) parole.
- (2) "Service provider" means:
 - (A) with respect to a person subject to lawful detention:
 - (i) a public servant;
 - (ii) a person employed by a governmental entity; or
 - (iii) a person who provides goods or services to a person who is subject to lawful detention; and
 - (B) with respect to a person subject to lawful supervision:
 - (i) a public servant whose official duties include the supervision of the person subject to lawful supervision;
 - (ii) a person employed by a governmental entity to provide supervision for the person subject to lawful supervision; or
 - (iii) a person who is employed by or contracts with a governmental entity to provide treatment or other services to the person subject to lawful supervision as a condition of the person's lawful supervision.

(b) A service provider who knowingly or intentionally engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with a person who is subject to lawful detention or lawful supervision commits sexual misconduct, a Level 5 felony.

(c) A service provider at least eighteen (18) years of age who knowingly or intentionally engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with a person who is:

(1) less than eighteen (18) years of age; and

(2) subject to lawful detention or lawful supervision;

commits sexual misconduct, a Level 4 felony.

(d) It is not a defense that an act described in subsection (b) or (c) was consensual.

(e) This section does not apply to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) between spouses.
As added by P.L.126-2012, SEC.54. Amended by P.L.158-2013, SEC.516; P.L.185-2014, SEC.6.